IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 313 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR HIRALAL PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR LR PATHAN for Petitioner

MR BY MANKAD APP for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 07/12/2000

ORAL JUDGEMENT

The accused No.3 -Bharatkumar Hiralal Parmar -petitioner herein of Sessions No.60 of 1999 pending on the file of learned 2nd Extra Assistant Judge and Assistant Sessions Judge, Mahesana (who will be referred to as the learned Judge of the trial Court), has, by filing this Criminal Revision Application challenged the

correctness, legality and proprietory of order dt. 1/7/2000 passed below application ex.16 and another order dt. 11/7/2000 passed below application Ex.17 in aforesaid Sessions Case.

2. Heard Shri L.R.Pathan, the learned advocate for the revsion petitioner and Shri B.Y.Mankad, the learned APP for the Respondent -State.

3. I have carefully examined both the impugned orders which are challenged in this Criminal Revision Applicaton. Having heard the learned advocates for both the parties, and on perusal of aforesaid two impugned orders and also the grounds stated in memo of this Criminal Revision Application, this Court is of the view that copies of the statements of witnesses which are referred to in application Exh. 17 and which are sought to be received from the trial Court are necessary for proving the contradictions in the evidence of said witnesses during the trial, and hence the orders passed below Exh. 16 and Ex.17 by the learned Judge of the trial Court, are not in accordance with the law and approach of the learned Judge of the trial Court is not proper.

4. In view of this, the orders challenged in this Criminal Revision Application are required to be set aside and accordingly they are set aside. The prosecution is directed to call the Investigating Officer personally before the trial Court directing him to produce all the papers relating to enquiry relating to Accidental Death Inquiry Entry No.33 of 1997 of Kadi Police Station (Under Sec. 174 of Cr.P.C.) in the trial Couirt. On production of such all the papers being made, the learned Judge of the trial Court is directed to furnish the copies of the statements of eight witnesses whose names are referred to in application Ex.17. If the learned Judge of the trial Court finds that a Chit having been written by the deceased is there in the said papers, copy of that Chit shall also be supplied to the accused.

5. In view of what is stated hereinabove, this Criminal Revision Application stands disposed of with the above directions given to the Investigating Officer and the learned Judge of the trial Court. Rule is made absolute to the aforesaid extent. Interim relief granted earlier shall stand vacated forth with. Direct Service is permitted.

Date: 7/12/2000. (H.H.MEHTA,J.)
ccshah